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No. 1038

In the Supreme Court of the United States

OCTOBER TERM, 1946

POTOMAC ELECTRIC POWER COMPANY, PETITIONER

v.

PUBLIC UTILITIES COMMISSION OF THE DISTRICT OF COLUMBIA, ET AL.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA

MEMORANDUM FOR THE UNITED STATES

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The United States, in its capacity as a consumer, was a party to the proceeding before the Public Utilities Commission of the District of Columbia in which the Commission issued its Order No. 2796, requiring the Potomac Electric Power Company (Pepco) to reduce its rates by $1,037,189. For the reasons stated in the petition herein, Pepco contended that the order was invalid *in toto*. The United States contended that the reduction which was ordered was inadequate. After their applications for reconsideration were denied by the Commission, the United States, as

an "affected person," and Pepco each instituted, in accordance with Paragraph 65 of the District of Columbia Utility Law (D. C. Code 43–705), a proceeding in the United States District Court for the District of Columbia objecting to Order No. 2796 and seeking judicial review thereof. Each intervened in the proceeding brought by the other. These proceedings were consolidated for many purposes. The District Court ordered the dismissal of the complaint in each case and, upon appeal, the Court of Appeals for the District of Columbia in separate opinions affirmed Order No. 2796 in all its aspects, rejecting the objections thereto raised by Pepco and by the United States.

Although the United States takes the position that the court below properly overruled the objections of petitioner Pepco to Order No. 2796 in the instant case, it believes that the court committed serious error, which requires correction by this Court, in overruling the objections to the order which were interposed by the United States in the companion case. Accordingly, the United States is filing a petition for a writ of certiorari to review the judgment of the Court of Appeals rejecting its objections to Order No. 2796. As will appear from the petition, it is believed that the questions there raised are of sufficient novelty and public importance to merit consideration by this Court. Since the issues presented by the

United States and by petitioner Pepco relate to the same administrative order and involve the construction of the same statute on substantially identical records, the United States would not, if the petition of the United States is granted in the companion case, oppose granting the petition for a writ of certiorari in this case.

Respectfully submitted.

GEORGE T. WASHINGTON,
Acting Solicitor General.

MARCH 1947.

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